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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 254 (ALC)

5 REGINALD FOWLER,

6  
7 Defendant.

8 Telephone Conference

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9 New York, N.Y.

10 May 16, 2023

11 1:10 p.m.

12 Before:

13 HON. ANDREW L. CARTER, JR.,

14 District Judge

15 APPEARANCES

16 DAMIAN WILLIAMS

17 United States Attorney for the  
Southern District of New York

18 BY: SEBASTIAN A. SWETT

SAMUEL L. RAYMOND

19 SAMUEL P. ROTHSCHILD

Assistant United States Attorneys

20 SAPONE & PETRILLO, LLP

21 Attorneys for Defendant

22 BY: EDWARD SAPONE

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(The Court and all parties present remotely)

THE DEPUTY CLERK: Criminal cause for a telephone status conference in case No. 19 Cr. 254, United States v. Reginald Fowler. Counsel, please state your appearances. For the government?

MR. ROTHSCILD: Good afternoon. This is AUSA Sam Rothschild, and I'm joined on the line by AUSAs Sheb Swett and Sam Raymond.

THE DEPUTY CLERK: And for the defendant?

MR. SAPONE: Good afternoon. This is Edward Sapone, counsel for Reginald Fowler, and I also note that Mr. Fowler has dialed in too.

THE DEPUTY CLERK: Mr. Fowler, state your name for the record, sir.

THE DEFENDANT: Reginald Fowler.

THE DEPUTY CLERK: Thank you.

THE COURT: Good afternoon.

We are having this telephone status conference just to discuss scheduling of the sentence in this case. But so the record's complete, defense counsel, do you waive your client's appearance in an actual courtroom for purposes of this call?

MR. SAPONE: This is Edward Sapone. Good afternoon, your Honor. Yes, I do.

THE COURT: Mr. Fowler, do you waive your appearance in an actual courtroom for purposes of this call?

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1 THE DEFENDANT: Good afternoon, your Honor. Yes, I  
2 do.

3 THE COURT: So I want to find out, I guess from  
4 defense counsel, we're scheduled to have sentencing tomorrow in  
5 this case starting at 3:30. Defense counsel has indicated  
6 that, in fact, he does want to cross-examine a certain  
7 individual, and I'm trying to get a sense --

8 (Connection interrupted)

9 THE COURT: So defense counsel had indicated that he  
10 wants to cross-examine a certain individual. We're holding  
11 this conference to find out if we are ready to actually go  
12 forward tomorrow. Defense counsel is requesting an adjournment  
13 of the sentence.

14 Go ahead, defense counsel, and please restate your  
15 reasons for the request and what dates you are requesting.

16 MR. SAPONE: Yes, your Honor. This is Edward Sapone.  
17 Thank you again.

18 Following our last court appearance, I had made a  
19 *Brady*/document demand of the government, and the government was  
20 good enough to respond to that, and I know that I received in  
21 Dropbox materials last Wednesday. Unfortunately, last Thursday  
22 I had to go in for a procedure. And so given that issue as  
23 well as technical issues as your Honor had intimated, I was  
24 able to open those documents yesterday, and I see that they  
25 number a little more than a thousand pages.

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1           So my request, respectfully, your Honor, is to adjourn  
2           sentencing to June 5 or July 6 or any date after that, and  
3           that's for two reasons: One, so that I could get through the  
4           material and be prepared to provide effective assistance to  
5           Mr. Fowler and address my medical issues. I'll also note, your  
6           Honor, that the reason for the disparity in the dates, that is,  
7           on the one hand, I ask for June 5 or July 6 or a later date is  
8           that on June 6, I start a trial in Doe v. Gooding in S.D.N.Y.,  
9           and that trial should be seven to nine days. And then  
10          immediately after that, I have a trial scheduled in United  
11          States v. Borrero Messina in the same courthouse, which should  
12          go ten days. So that's the reason for those requested dates,  
13          your Honor.

14                 THE COURT: Let me hear from the government.

15                 MR. ROTHSCILD: Good afternoon, your Honor. This is  
16          AUSA Sam Rothschild. Just a few points, your Honor.

17                 First, just for sake of clarifying the record,  
18          Mr. Sapone referred to his letter as a *Brady* demand. That is,  
19          in fact, how he styled his letter. The government does not  
20          believe that any of the materials produced in response to that  
21          letter constitute *Brady* materials. A number of the materials  
22          produced were documents that were already in the possession of  
23          defense counsel or the defendant or were publicly available.  
24          Any new documents, in the government's view, were not documents  
25          that the government was, strictly speaking, legally obligated

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1 to produce, but in an effort to be helpful to the defense,  
2 we've gone above and beyond our obligations here to produce  
3 materials to the defense.

4 And also, I'll note that the government's consent to  
5 the defense's adjournment request is based entirely on defense  
6 counsel's personal medical issues. If it were just the  
7 purported technical issues, we would not be consenting to the  
8 adjournment. The materials were available to the defense as of  
9 last Wednesday.

10 The government clearly has an interest in moving  
11 forward expeditiously here, your Honor, and we would strongly  
12 favor the June date that the defense proposes as opposed to the  
13 July date.

14 Happy to answer any further questions that the Court  
15 might have.

16 THE COURT: Let me get a sense from defense counsel,  
17 do you have an estimate as to the length of your examination of  
18 this witness?

19 MR. SAPONE: My best guess, your Honor, would be about  
20 an hour.

21 THE COURT: OK.

22 MR. SAPONE: And this is Ed Sapone, of course.

23 THE COURT: Let's do this: Let's adjourn the sentence  
24 until June 5 at 10 o'clock. I believe that works for me.

25 Tara, does that work for us, for our calendar?

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1 THE DEPUTY CLERK: Yes, it does, Judge.

2 THE COURT: All right. We'll schedule sentencing for  
3 Monday, June 5, at 10 a.m.

4 Anything else from the government?

5 MR. ROTHSCILD: Nothing further from the government,  
6 your Honor. Thank you.

7 THE COURT: Anything else from the defense?

8 MR. SAPONE: This is Ed Sapone.

9 No, your Honor. Thank you very much.

10 THE COURT: OK. We are adjourned.

11 (Adjourned)

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